

1 BILL LOCKYER, Attorney General  
of the State of California  
2 JAMI L. CANTORE, State Bar No. 165410  
Deputy Attorney General  
3 California Department of Justice  
300 So. Spring Street, Suite 1702  
4 Los Angeles, CA 90013  
Telephone: (213) 897-2569  
5 Facsimile: (213) 897-2804

6 Attorneys for Complainant

7 **BEFORE THE**  
**CALIFORNIA BOARD OF ACCOUNTANCY**  
8 **DEPARTMENT OF CONSUMER AFFAIRS**  
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation and Amended  
Petition to Revoke Probation Against:

Case No. D1-2003-34

11 RANDY B. KIMBALL  
12 7365 Carnelian Street #231  
13 Rancho Cucamonga, CA 91730

**AMENDED STIPULATED  
REVOCATION OF LICENSE AND  
ORDER**

14 Certified Public Accountant Certificate No.  
15 27475

16 Respondent.

17  
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this  
19 proceeding that the following matters are true:

20 PARTIES

21 1. Carol Sigmann (Complainant) is the Executive Officer of the California  
22 Board of Accountancy. She brought this action solely in her official capacity and is represented  
23 in this matter by Bill Lockyer, Attorney General of the State of California, by Jami L. Cantore,  
24 Deputy Attorney General.

25 2. Randy B. Kimball (Respondent) is represented in this proceeding by  
26 attorney Ellen A. Pansky, whose address is Pansky & Markle, 1114 Fremont Avenue  
27 South Pasadena, CA 91030-3227.

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1                   3.       On or about March 30, 1979, the California Board of Accountancy issued  
2 Certified Public Accountant Certificate No. CPA 27475 to Randy B. Kimball (Respondent). The  
3 Certificate was in a renewed status with continuing education ("active") and remained in that  
4 status through August, 1990.<sup>1</sup> The Certificate was expired and was not valid during the period  
5 September 1, 1990 through September 28, 1990, for the following reasons:

6                   a)       The renewal fee required by California Business and Professions Code  
7 section 5070.5 was not paid; and

8                   b)       Declaration of compliance with continuing education requirements was  
9 not submitted.

10                   Effective September 29, 1990, the certificate was renewed through August 31,  
11 1992, with continuing education ("active"). The certificate was expired and was not valid during  
12 the period September 1, 1992 through November 22, 1992, for the following reasons:

13                   a)       The renewal fee required by California Business and Professions Code  
14 section 5070.5 was not paid; and

15                   b)       Declaration of compliance with continuing education requirements was  
16 not submitted.

17                   Effective November 23, 1992, the certificate was renewed through August 31,  
18 1994 with continuing education ("active"). The certificate was expired and was not valid during  
19 the period September 1, 1994 through September 27, 1994, for the following reasons:

20                   a)       The renewal fee required by California Business and Professions Code  
21 section 5070.5 was not paid; and

22                   b)       Declaration of compliance with continuing education requirements was  
23 not submitted.

24                   Effective September 28, 1994, the certificate was renewed through August 31,  
25 1996, with continuing education ("active"). The certificate was expired and was not valid during  
26 the period September 1, 1996 through August 22, 2001, for the following reasons:

27 \_\_\_\_\_

28                   1. The California Board of Accountancy's licensing records were transferred to the Department of  
Consumer Affairs' centralized computer system in March 1989.

1 a) The renewal fee required by California Business and Professions Code  
2 section 5070.5 was not paid; and

3 b) Declaration of compliance with continuing education requirements was  
4 not submitted.

5 Effective August 23, 2001, the certificate was renewed through August 31, 2002,  
6 without continuing education ("inactive"). The certificate was expired and was not valid during  
7 the period September 1, 2002 through May 10, 2004 for the following reasons:

8 a) The renewal fee required by California Business and Professions Code  
9 section 5070.5 was not paid; and

10 b) Declaration of compliance with continuing education requirements was  
11 not submitted.

12 Effective April 1, 2004, the Certificate was "suspended" through June 30, 2004.  
13 Effective May 11, 2004, the Certificate was renewed without continuing education ("inactive"),  
14 and remained on suspension through June 30, 2004. Effective July 1, 2004, the license was  
15 converted to active status through August 31, 2004, upon receipt of the license status conversion  
16 form and declaration of compliance with the Continuing Education requirements. Effective  
17 September 1, 2004, the Certificate was renewed through August 31, 2006, as ("active").

18 JURISDICTION

19 4. Accusation and Amended Petition to Revoke Probation No. D1-2003-34  
20 was filed on October 28, 2005, before the California Board of Accountancy (Board), Department  
21 of Consumer Affairs, and is currently pending against Respondent. The Accusation and  
22 Amended Petition to Revoke Probation and all other statutorily required documents were  
23 properly served on Respondent on November 3, 2005. Respondent timely filed his Notice of  
24 Defense contesting the Accusation and Petition to Revoke Probation. A copy of Accusation and  
25 Amended Petition to Revoke Probation No. D1-2003-34 is attached as Exhibit A and  
26 incorporated herein by reference.

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1 constitutes a record of discipline and shall become a part of Respondent's license history with the  
2 Board.

3 16. Respondent shall lose all rights and privileges as a Certified Public  
4 Accountant in California as of the effective date of the Board's Decision and Order.

5 17. Respondent shall cause to be delivered to the Board both his wall and  
6 pocket license certificates on or before the effective date of the Decision and Order.


7 18. Respondent fully understands and agrees that if he ever files an application  
8 for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement.  
9 Respondent must comply with all the laws, regulations and procedures for reinstatement of a  
10 revoked license in effect at the time the petition is filed, and all of the charges and allegations  
11 contained in Accusation and Amended Petition to Revoke Probation No. D1-2003-34 shall be  
12 deemed to be true, correct and admitted by Respondent when the Board determines whether to  
13 grant or deny the petition.

14 19. Respondent shall pay the Board its costs of investigation and enforcement  
15 in the amount of \$13,753.08 prior to the issuance of a new or reinstated license.

16 ACCEPTANCE

17 I have carefully read the above Stipulated Revocation of License and Order and  
18 have fully discussed it with my attorney, Ellen A. Pansky. I understand the stipulation and the  
19 effect it will have on my Certified Public Accountant Certificate. I enter into this Stipulated  
20 Revocation of License and Order voluntarily, knowingly, and intelligently, and agree to be bound  
21 by the Decision and Order of the California Board of Accountancy.

22 DATED: 11-5-05

23   
24 Randy B. Kimball (Respondent)  
Respondent

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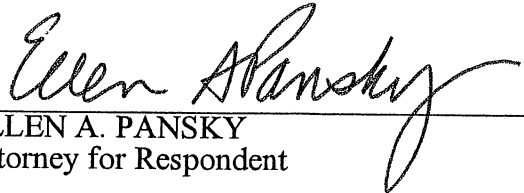
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1 I have read and fully discussed with Respondent Randy B. Kimball the terms and  
2 conditions and other matters contained in this Stipulated Revocation of License and Order. I  
3 approve its form and content.

4 DATED: 11-4-05.

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6   
7 ELLEN A. PANSKY  
8 Attorney for Respondent

9 ENDORSEMENT

10 The foregoing Stipulated Revocation of License and Order is hereby respectfully  
11 submitted for consideration by the California Board of Accountancy of the Department of  
12 Consumer Affairs.

13  
14 DATED: \_\_\_\_\_.

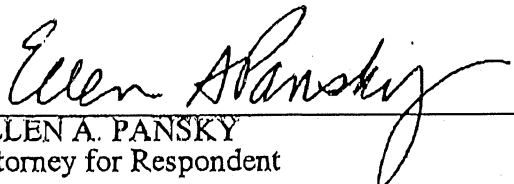
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16 BILL LOCKYER, Attorney General  
17 of the State of California

18  
19 JAMI L. CANTORE  
20 Deputy Attorney General

21 Attorneys for Complainant  
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2 conditions and other matters contained in this Stipulated Revocation of License and Order. I  
3 approve its form and content.

4 DATED: 11-4-05.


5  
6   
7 ELLEN A. PANSKY  
8 Attorney for Respondent

9 ENDORSEMENT

10 The foregoing Stipulated Revocation of License and Order is hereby respectfully  
11 submitted for consideration by the California Board of Accountancy of the Department of  
12 Consumer Affairs.

13  
14 DATED: 11/7/05.

15  
16 BILL LOCKYER, Attorney General  
17 of the State of California

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19 JAMI L. CANTORE  
20 Deputy Attorney General  
21 Attorneys for Complainant  
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**BEFORE THE  
CALIFORNIA BOARD OF ACCOUNTANCY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation and Amended  
Petition to Revoke Probation Against:

RANDY B. KIMBALL  
7365 Carnelian Street #231  
Rancho Cucamonga, CA 91730

Certified Public Accountant Certificate No.  
27475

Respondent.

Case No. D1-2003-34

**DECISION AND ORDER**

The attached Stipulated Revocation of License and Order is hereby adopted by the California Board of Accountancy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on February 24, 2006.

It is so ORDERED January 25, 2006.

  
**FOR THE CALIFORNIA BOARD OF ACCOUNTANCY  
DEPARTMENT OF CONSUMER AFFAIRS**

BILL LOCKYER, Attorney General  
of the State of California  
JAMI CANTORE, State Bar No. 165410  
Deputy Attorney General  
California Department of Justice  
300 So. Spring Street, Suite 1702  
Los Angeles, CA 90013  
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Facsimile: (213) 897-2804

Attorneys for Complainant

**BEFORE THE  
CALIFORNIA BOARD OF ACCOUNTANCY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation and Petition to  
Revoke Probation Against:

RANDY B. KIMBALL  
7365 Carnelian Street #231  
Rancho Cucamonga, CA 91730

Certified Public Accountant Certificate  
No. CPA 27475

Respondent.

Case No. D1-2003-34

**ACCUSATION AND AMENDED  
PETITION TO REVOKE  
PROBATION**

Complainant alleges:

**PARTIES**

1. Carol Sigmann (Complainant) brings this Accusation and Amended Petition to Revoke Probation solely in her official capacity as the Executive Officer of the California Board of Accountancy, Department of Consumer Affairs and makes and files this Accusation and Amended Petition to Revoke Probation solely in her official capacity. This Accusation and Amended Petition to Revoke Probation supersedes and replaces nunc pro the Accusation and Petition to Revoke Probation previously filed.
2. On or about March 30, 1979, the California Board of Accountancy issued Certified Public Accountant Certificate No. CPA 27475 to Randy B. Kimball (Respondent). The Certificate was in a renewed status with continuing education ("active") and remained in that

1 status through August, 1990.<sup>1</sup> The Certificate was expired and was not valid during the period  
2 September 1, 1990 through September 28, 1990, for the following reasons:

3 a) The renewal fee required by California Business and Professions Code  
4 section 5070.5 was not paid; and

5 b) Declaration of compliance with continuing education requirements was  
6 not submitted.

7 Effective September 29, 1990, the certificate was renewed through August 31,  
8 1992, with continuing education ("active"). The certificate was expired and was not valid during  
9 the period September 1, 1992 through November 22, 1992, for the following reasons:

10 a) The renewal fee required by California Business and Professions Code  
11 section 5070.5 was not paid; and

12 b) Declaration of compliance with continuing education requirements was  
13 not submitted.

14 Effective November 23, 1992, the certificate was renewed through August 31,  
15 1994 with continuing education ("active"). The certificate was expired and was not valid during  
16 the period September 1, 1994 through September 27, 1994, for the following reasons:

17 a) The renewal fee required by California Business and Professions Code  
18 section 5070.5 was not paid; and

19 b) Declaration of compliance with continuing education requirements was  
20 not submitted.

21 Effective September 28, 1994, the certificate was renewed through August 31,  
22 1996, with continuing education ("active"). The certificate was expired and was not valid during  
23 the period September 1, 1996 through August 22, 2001, for the following reasons:

24 a) The renewal fee required by California Business and Professions Code  
25 section 5070.5 was not paid; and

26 b) Declaration of compliance with continuing education requirements was

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27  
28 1. The California Board of Accountancy's licensing records were transferred to the Department of  
Consumer Affairs' centralized computer system in March 1989.

1 not submitted.

2 Effective August 23, 2001, the certificate was renewed through August 31, 2002,  
3 without continuing education ("inactive"). The certificate was expired and was not valid during  
4 the period September 1, 2002 through May 10, 2004 for the following reasons:

5 a) The renewal fee required by California Business and Professions Code  
6 section 5070.5 was not paid; and

7 b) Declaration of compliance with continuing education requirements was  
8 not submitted.

9 Effective April 1, 2004, the Certificate was "suspended" through June 30, 2004.  
10 Effective May 11, 2004, the Certificate was renewed without continuing education ("inactive"),  
11 and remained on suspension through June 30, 2004. Effective July 1, 2004, the license was  
12 converted to active status through August 31, 2004, upon receipt of the license status conversion  
13 form and declaration of compliance with the Continuing Education requirements. Effective  
14 September 1, 2004, the Certificate was renewed through August 31, 2006, as ("active").

15 JURISDICTION

16 3. This Accusation is brought before the California Board of Accountancy  
17 (Board), Department of Consumer Affairs, under the authority of the following laws. All section  
18 references are to the Business and Professions Code unless otherwise indicated.

19 4. Section 118, subdivision (b), states:

20 "The suspension, expiration, or forfeiture by operation of law of a license issued  
21 by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or  
22 by order of a court of law, or its surrender without the written consent of the board, shall not,  
23 during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board  
24 of its authority to institute or continue a disciplinary proceeding against the licensee upon any  
25 ground provided by law or to enter an order suspending or revoking the license or otherwise  
26 taking disciplinary action against the licensee on any such ground."

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1                   5.       Section 5050 states:

2                   "No person shall engage in the practice of public accountancy in this State unless  
3 such person is the holder of a valid permit to practice public accountancy issued by the board;  
4 provided, however, that nothing in this chapter shall prohibit a certified public accountant or a  
5 public accountant of another state, or any accountant of a foreign country lawfully practicing  
6 therein, from temporarily practicing in this State on professional business incident to his regular  
7 practice in another state or country."

8                   6.       Section 5051 states:

9                   "Except as provided in Sections 5052 and 5053, a person shall be deemed to be  
10 engaged in the practice of public accountancy within the meaning and intent of [Chapter 1 of  
11 Division 3 (commencing with Section 5000)] if he or she does any of the following:

12                   "(a) Holds himself or herself out to the public in any manner as one skilled in the  
13 knowledge, science, and practice of accounting, and as qualified and ready to render professional  
14 service therein as a public accountant for compensation.

15                   "(b) Maintains an office for the transaction of business as a public accountant.

16                   "(c) Offers to prospective clients to perform for compensation, or who does  
17 perform on behalf of clients for compensation, professional services that involve or require an  
18 audit, examination, verification, investigation, certification, presentation, or review of financial  
19 transactions and accounting records.

20                   "(d) Prepares or certifies for clients reports on audits or examinations of books or  
21 records of account, balance sheets, and other financial, accounting and related schedules,  
22 exhibits, statements, or reports that are to be used for publication, for the purpose of obtaining  
23 credit, for filing with a court of law or with any governmental agency, or for any other purpose.

24                   "(e) In general or as an incident to that work, renders professional services to  
25 clients for compensation in any or all matters relating to accounting procedure and to the  
26 recording, presentation, or certification of financial information or data.

27                   "(f) Keeps books, makes trial balances, or prepares statements, makes audits, or  
28 prepares reports, all as a part of bookkeeping operations for clients.

1                   "(g) Prepares or signs, as the tax preparer, tax returns for clients.

2                   "(h) Prepares personal financial or investment plans or provides to clients  
3 products or services of others in implementation of personal financial or investment plans.

4                   "(i) Provides management consulting services to clients.

5                   "The activities set forth in subdivisions (f) to (i), inclusive, are 'public  
6 accountancy' only when performed by a certified public accountant or public accountant, as  
7 defined in this chapter.

8                   "A person is not engaged in the practice of public accountancy if the only services  
9 he or she engages in are those defined by subdivisions (f) to (i), inclusive, and he or she does not  
10 hold himself or herself out, solicit, or advertise for clients using the certified public accountant or  
11 public accountant designation. A person is not holding himself or herself out, soliciting, or  
12 advertising for clients within the meaning of this section solely by reason of displaying a CPA or  
13 PA certificate in his or her office or identifying himself or herself as a CPA or PA on other than  
14 signs, advertisements, letterhead, business cards, publications directed to clients or potential  
15 clients, or financial or tax documents of a client."

16                   7.       Section 5100 states:

17                   "After notice and hearing the board may revoke, suspend, or refuse to renew any  
18 permit or certificate granted under Article 4 (commencing with Section 5070) and Article 5  
19 (commencing with Section 5080), or may censure the holder of that permit or certificate for  
20 unprofessional conduct that includes, but is not limited to, one or any combination of the  
21 following causes:

22                   .....

23                   "(g) Willful violation of this chapter or any rule or regulation promulgated by the  
24 board under the authority granted under this chapter."

25                   8.       Business and Professions Code section 22253, subdivision (a), states, in  
26 pertinent part:

27                   "It is a violation of this chapter for a tax preparer to do any of the following:

28                   "(1) Failed to register as a tax preparer with the council."

1                   9.       California Code of Regulations, title 16, section 80, states:

2                   "Upon application, a licensee may have his/her license placed in an inactive  
3 status.

4                   "(a) The holder or an inactive license shall not engage in the practice of public  
5 accountancy as defined in Section 5051 of the Business and Professions Code.

6                   "This section does not prohibit a holder of an inactive license from receiving a  
7 share of the net profits from a public accounting firm or other compensation from a public  
8 accounting firm, provided that the licensee does not otherwise engage in the practice of public  
9 accountancy, directly or indirectly.

10                  "(b) An inactive license shall be renewed during the same time period in which an  
11 active license is renewed. The renewal fee for a license in active status shall also apply for the  
12 renewal of a license in inactive status.

13                  "(c) The continuing education requirements set forth in Section 87 are not  
14 applicable at the time of renewal in inactive status.

15                  "(d) At the time of renewal, the holder of an inactive license may convert his or  
16 her license to active status by paying the renewal fee and complying with the continuing  
17 education requirements as stated in Section 87.

18                  "(e) The holder of an inactive license may convert to active status prior to his/her  
19 next renewal by meeting the continuing education requirements as stated in Section 87.1."

20                  10.       California Code of Regulations, title 16, section 87, subdivision (a), states,  
21 in pertinent part:

22                         "80 Hours.

23                         "As a condition of active status license renewal, a licensee shall complete at least  
24 80 hours of qualifying continuing education as described in Section 88 in the two-year period  
25 immediately preceding license expiration and meet the reporting requirements specified in  
26 subsection (a) of Section 89.

27                         "A licensee engaged in the practice of public accountancy as defined in Section  
28 5051 of the Business and Professions Code is required to hold a license in active status. No

1 carryover of continuing education is permitted from one two-year license renewal period to  
2 another."

3 11. Section 5107, subdivision (a), states:

4 "The executive officer of the board may request the administrative law judge, as  
5 part of the proposed decision in a disciplinary proceeding, to direct any holder of a permit or  
6 certificate found to have committed a violation or violations of this chapter to pay to the board all  
7 reasonable costs of investigation and prosecution of the case, including, but not limited to,  
8 attorneys' fees. The board shall not recover costs incurred at the administrative hearing."

9 FIRST CAUSE FOR DISCIPLINE

10 (Unprofessional Conduct: Practicing With An Expired License)

11 12. Respondent is subject to disciplinary action under section 5100,  
12 subdivision (g), on the grounds of unprofessional conduct for violating section 5050 in that  
13 Respondent engaged in the practice of public accountancy with an expired license. The  
14 circumstances are as follows:

15 a. During a scheduled probationary hearing with Board representatives on  
16 May 6, 2004, Respondent stated that he had prepared approximately 160-170 tax returns from  
17 January 1, 2004, through March 31, 2004, during which time Respondent's license was expired.

18 b. From on or about January 1, 2004 through on or about March 31, 2004,  
19 Respondent engaged in the practice of public accountancy and continued to use the CPA  
20 designation during the time his license was expired. Respondent provided professional income  
21 tax preparation services to clients.

22 SECOND CAUSE FOR DISCIPLINE

23 (Unprofessional Conduct: Practicing Without a Valid Permit)

24 13. Respondent is subject to disciplinary action under section 5100,  
25 subdivision (g), on the grounds of unprofessional conduct for violating section 5050, in  
26 conjunction with California Code of Regulations, title 16, section 80, in that Respondent engaged  
27 in the practice of public accountancy without a valid permit. The circumstances are as follows:

28 a. From on or about April 1, 2004 through June 30, 2004, Respondent



1 continued to use the CPA designation in correspondence with third parties for the purpose of  
2 preparing tax returns and in billing his clients while his permit was under suspension.

3 THIRD CAUSE FOR DISCIPLINE

4 (Unprofessional Conduct: Failure to Register with Council)

5 14. Respondent is subject to disciplinary action under section 5100,  
6 subdivision (g), on the grounds of unprofessional conduct for violating section 22253,  
7 subdivision (a)(1), in that Respondent failed to register as a tax preparer with the California Tax  
8 Education Council ("CTEC"). The circumstances are as follows:

9 a. At a scheduled probation hearing on May 6, 2004, Respondent represented  
10 to the Board that he would obtain registration with the CTEC if he would be preparing taxes  
11 during his suspension period. From April 1, 2004 through June 30, 2004, Respondent practiced  
12 the preparation of tax returns without obtaining a valid tax preparer registration with CTEC.

13 b. A review of Respondent's files conducted by an investigator for the Board  
14 revealed that Respondent provided professional income tax preparation services to clients during  
15 his suspension period without obtaining registration with CTEC.

16 AMENDED PETITION TO REVOKE PROBATION

17 15. In a disciplinary action entitled "In the Matter of Accusation Against  
18 Randy B. Kimball," Case No. AC-2003-34, the California Board of Accountancy, issued a  
19 decision, effective April 1, 2004, in which Respondent's Certified Public Accountant Certificate  
20 was revoked. However, the revocation was stayed and Respondent's certificate was placed on  
21 probation for a period of three (3) years with certain terms and conditions. A copy of that  
22 decision is attached as Exhibit A and is incorporated by reference.

23 The terms and conditions included:

24 Condition 2 of Probation:

25 "2. Obey All Laws. Respondent shall obey all federal, California, other states'  
26 and local laws, including those rules relating to the practice of public accountancy in California."

27 Condition 3 of Probation:

28 "3. Submit Written Reports. Respondent shall submit, within ten (10) days of

1 completion of the quarter, written reports to the Board on a form obtained from the Board. The  
2 Respondent shall submit, under penalty of perjury, such other written reports, declarations, and  
3 verification of actions as are required. These declarations shall contain statements relative to  
4 Respondent's compliance with all the terms and conditions of probation. Respondent shall  
5 immediately execute all release of information forms as may be required by the Board or its  
6 representatives."

7 Condition 11 of Probation:

8 "11. Registration With CTEC. During the period of suspension, Respondent  
9 shall not prepare income tax returns for clients unless he has a valid tax preparer registration with  
10 the California Tax Education Council."

11 Condition 13 of Probation:

12 "13. Cost Reimbursement. Respondent shall reimburse the Board \$6,947.27  
13 for its investigation and prosecution costs. The payment shall be made in quarterly payments  
14 (due with quarterly written reports), the final payment being due six months before probation is  
15 scheduled to terminate."

16 GROUND FOR REVOKING PROBATION

17 16. Grounds exist for revoking probation and reimposing the Order of  
18 revocation of Respondent's Certificate in that Respondent failed to comply with the following  
19 terms of probation:

20 a. Probation Term No. 2: Obey All Laws. Respondent failed to obey all  
21 laws, including those rules relating to the practice of public accountancy in California in that  
22 Respondent continued to use the CPA designation for the purpose of preparing tax returns in  
23 billing his clients during the time his permit to practice was suspended.

24 b. Probation Term No. 3: Submit Written Reports. Respondent has failed to  
25 file Quarterly Reports for the quarter ended March 31, 2005, due by April 10, 2005; for the  
26 quarter ended June 30, 2005, due by July 10, 2005; and for the quarter ended September 30,  
27 2005, due by October 10, 2005.

28 ///

1 c. Probation Term No. 11: Registration with CTEC. Respondent failed to  
2 obtain a valid tax preparer registration with the California Tax Education Council during the  
3 period of suspension.

4 d. Probation Term No. 13.: Cost Reimbursement. Respondent has failed to  
5 comply with the following payment due dates:

<u>Payment Due</u>	<u>Payment Amount</u>
April 10, 2005	\$694.73
July 10, 2005	\$694.73
October 10, 2005	\$694.73

9  
10 PRAYER

11 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
12 alleged, and that following the hearing, the California Board of Accountancy issue a decision:

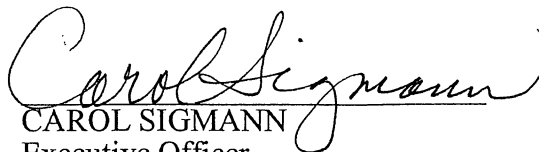
13 1. Revoking, suspending, or otherwise imposing discipline on Certified  
14 Public Accountant Certificate No. CPA 27475, issued to Randy B. Kimball;

15 2. Revoking the probation that was granted by the California Board of  
16 Accountancy in Case No. AC-2003-34 and imposing the disciplinary order that was stayed  
17 thereby revoking Certified Public Accountant Certificate No. CPA 27475 issued to Randy B.  
18 Kimball;

19 3. Ordering Randy B. Kimball to pay the California Board of Accountancy  
20 the reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
21 Professions Code section 5107;

22 4. Taking such other and further action as deemed necessary and proper.

23 DATED: October 28, 2005

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25   
26 CAROL SIGMANN  
27 Executive Officer  
28 California Board of Accountancy  
Department of Consumer Affairs  
State of California  
Complainant

**Exhibit A**

**Decision and Order**

**California Board of Accountancy Case No. D1-2003-34**

BILL LOCKYER, Attorney General  
of the State of California  
GUS GOMEZ, State Bar No. 146845  
Deputy Attorney General  
California Department of Justice  
300 So. Spring Street, Suite 1702  
Los Angeles, CA 90013  
Telephone: (213) 897-2563  
Facsimile: (213) 897-2804

Attorneys for Complainant

BEFORE THE  
CALIFORNIA BOARD OF ACCOUNTANCY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. AC-2003-34

RANDY B. KIMBALL  
7365 Carnelian Ave., Ste. 231  
Rancho Cucamonga, CA 91730

Certified Public Accountancy Certificate No.  
CPA 27475

Respondent.

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the  
above-entitled proceedings that the following matters are true:

PARTIES

1. Carol Sigmann (Complainant) is the Executive Officer of the California  
Board of Accountancy, Department of Consumer Affairs (Board). She brought this action solely  
in her official capacity and is represented in this matter by Bill Lockyer, Attorney General of the  
State of California, by Gus Gomez, Deputy Attorney General.

2. Respondent Randy B. Kimball (Respondent) is represented in this  
proceeding by attorney R. Gerald Markle, whose address is Pansky & Markle, 1114 Fremont  
Avenue, South Pasadena, CA 91030.

3. On or about March 30, 1979, the Board issued Certified Public  
Accountancy Certificate No. CPA 27475 to Randy B. Kimball (Respondent). The certificate

1 expired on September 1, 2002, and has not been renewed.

2 JURISDICTION

3 4. Accusation No. A-2003-34<sup>1</sup> was filed before the Board and is currently  
4 pending against Respondent. The Accusation and all other statutorily required documents were  
5 properly served on Respondent on November 6, 2003. Respondent timely filed his Notice of  
6 Defense contesting the Accusation. A copy of Accusation No. AC-2003-34 is attached as exhibit  
7 A and incorporated herein by reference.

8 ADVISEMENT AND WAIVERS

9 5. Respondent has carefully read, fully discussed with counsel, and  
10 understands the charges and allegations in Accusation No. AC-2003-34. Respondent has also  
11 carefully read, fully discussed with counsel, and understands the effects of this Stipulated  
12 Settlement and Disciplinary Order.

13 6. Respondent is fully aware of his legal rights in this matter, including the  
14 right to a hearing on the charges and allegations in the Accusation; the right to be represented by  
15 counsel at his own expense; the right to confront and cross-examine the witnesses against him;  
16 the right to present evidence and to testify on his own behalf; the right to the issuance of  
17 subpoenas to compel the attendance of witnesses and the production of documents; the right to  
18 reconsideration and court review of an adverse decision; and all other rights accorded by the  
19 California Administrative Procedure Act and other applicable laws.

20 7. Respondent voluntarily, knowingly, and intelligently waives and gives up  
21 each and every right set forth above.

22 CULPABILITY

23 8. Respondent admits the truth of each and every charge and allegation in  
24 Accusation No. AC-2003-34.

25 9. Respondent agrees that his Certified Public Accountancy Certificate is  
26 subject to discipline and he agrees to be bound by the Board's imposition of discipline as set forth  
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28 1. Hereinafter Accusation No. AC-2003-34.

1 in the Disciplinary Order below.

2 CONTINGENCY

3 10. This stipulation shall be subject to approval by the Board. Respondent  
4 understands and agrees that counsel for Complainant and the staff of the Board may  
5 communicate directly with the Board regarding this stipulation and settlement, without notice to  
6 or participation by Respondent or his counsel. By signing the stipulation, Respondent  
7 understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation  
8 prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation  
9 as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force  
10 or effect, except for this paragraph, it shall be inadmissible in any legal action between the  
11 parties, and the Board shall not be disqualified from further action by having considered this  
12 matter.

13 11. The parties understand and agree that facsimile copies of this Stipulated  
14 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same  
15 force and effect as the originals.

16 12. In consideration of the foregoing admissions and stipulations, the parties  
17 agree that the Board may, without further notice or formal proceeding, issue and enter the  
18 following Disciplinary Order:

19 DISCIPLINARY ORDER

20 IT IS HEREBY ORDERED that Certified Public Accountancy Certificate No.  
21 CPA 27475 issued to Respondent Randy B. Kimball is revoked. However, the revocation is  
22 stayed and Respondent is placed on probation for three (3) years on the following terms and  
23 conditions.

24 1. **Actual Suspension.** Certified Public Accountancy Certificate No. CPA  
25 27475 issued to Randy B. Kimball is suspended for three (3) months. During the period of  
26 suspension the Respondent shall engage in no activities for which certification as a Certified  
27 Public Accountant or Public Accountant is required as described in Business and Professions  
28 Code, Division 3, Chapter 1, Section 5051.

1                   2.     **Obey All Laws.** Respondent shall obey all federal, California, other  
2 states' and local laws, including those rules relating to the practice of public accountancy in  
3 California.

4                   3.     **Submit Written Reports.** Respondent shall submit, within ten (10) days  
5 of completion of the quarter, written reports to the Board on a form obtained from the Board.  
6 The Respondent shall submit, under penalty of perjury, such other written reports, declarations,  
7 and verification of actions as are required. These declarations shall contain statements relative to  
8 Respondent's compliance with all the terms and conditions of probation. Respondent shall  
9 immediately execute all release of information forms as may be required by the Board or its  
10 representatives.

11                  4.     **Personal Appearances.** Respondent shall, during the period of probation,  
12 appear in person at interviews/meetings as directed by the Board or its designated  
13 representatives, provided such notification is accomplished in a timely manner.

14                  5.     **Comply With Probation.** Respondent shall fully comply with the terms  
15 and conditions of the probation imposed by the Board and shall cooperate fully with  
16 representatives of the Board of Accountancy in its monitoring and investigation of the  
17 Respondent's compliance with probation terms and conditions.

18                  6.     **Practice Investigation.** Respondent shall be subject to, and shall permit,  
19 practice investigation of the Respondent's professional practice. Such a practice investigation  
20 shall be conducted by representatives of the Board, provided notification of such review is  
21 accomplished in a timely manner.

22                  7.     **Comply With Citations.** Respondent shall comply with all final orders  
23 resulting from citations issued by the Board of Accountancy.

24                  8.     **Tolling of Probation For Out-of-State Residence/Practice.** In the event  
25 Respondent should leave California to reside or practice outside this state, Respondent must  
26 notify the Board in writing of the dates of departure and return. Periods of non-California  
27 residency or practice outside the state shall not apply to reduction of the probationary period, or  
28 of any suspension. No obligation imposed herein, including requirements to file written reports,



1 reimburse the Board costs, or make restitution to consumers, shall be suspended or otherwise  
2 affected by such periods of out-of-state residency or practice except at the written direction of the  
3 Board.

4           **9. Violation of Probation.** If Respondent violates probation in any respect,  
5 the Board, after giving Respondent notice and an opportunity to be heard, may revoke probation  
6 and carry out the disciplinary order that was stayed. If an accusation or a petition to revoke  
7 probation is filed against Respondent during probation, the Board shall have continuing  
8 jurisdiction until the matter is final, and the period of probation shall be extended until the matter  
9 is final.

10           **10. Completion of Probation.** Upon successful completion of probation,  
11 Respondent's license will be fully restored.

12           **11. Registration With CTEC.** During the period of suspension, Respondent  
13 shall not prepare income tax returns for clients unless he has a valid tax preparer registration with  
14 the California Tax Education Council.

15           **12. Active License Status.** Respondent shall at all times during probation  
16 maintain an active license status with the Board. If the license is expired at the time the Board's  
17 decision becomes effective, the license must be brought to current and active status prior to the  
18 end of the suspension period.

19           **13. Cost Reimbursement.** Respondent shall reimburse the Board \$6,947.27  
20 for its investigation and prosecution costs. The payment shall be made in quarterly payments  
21 (due with quarterly written reports), the final payment being due six months before probation is  
22 scheduled to terminate.

23           **14. Notification to Clients/Cessation of Practice.** In orders which provide  
24 for a cessation or suspension of practice, Respondent shall comply with procedures provided by  
25 the Board of Accountancy or its designee regarding notification to, and management of, clients.

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ACCEPTANCE


I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, R. Gerald Markle. I understand the stipulation and the effect it will have on my Certified Public Accountancy Certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the California Board of Accountancy.

DATED: 1-20-04

  
RANDY B. KIMBALL  
Respondent

I have read and fully discussed with Respondent Randy B. Kimball the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 1-23-04

  
R. GERALD MARKLE  
Attorney for Respondent

**BEFORE THE  
CALIFORNIA BOARD OF ACCOUNTANCY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. AC-2003-34

RANDY B. KIMBALL  
7365 Carnelian Ave., Ste. 231  
Rancho Cucamonga, CA 91730

Certified Public Accountancy Certificate No.  
CPA 27475

Respondent.

**DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the California Board of Accountancy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on April 1, 2004.

It is so ORDERED March 2, 2004.



FOR THE CALIFORNIA BOARD OF ACCOUNTANCY  
DEPARTMENT OF CONSUMER AFFAIRS

**Exhibit A**

**Accusation No. AC-2003-34**

BILL LOCKYER, Attorney General  
of the State of California  
GUS GOMEZ, State Bar No. 146845  
Deputy Attorney General  
California Department of Justice  
300 So. Spring Street, Suite 1702  
Los Angeles, CA 90013  
Telephone: (213) 897-2563  
Facsimile: (213) 897-2804

Attorneys for Complainant

**BEFORE THE  
CALIFORNIA BOARD OF ACCOUNTANCY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. A-2003-34

RANDY B. KIMBALL  
7365 Carnelian Ave., Ste. 231  
Rancho Cucamonga, CA 91730

**A C C U S A T I O N**

Certified Public Accountant Certificate  
No. 27475

Respondent.

Complainant alleges:

**PARTIES**

1. Carol Sigmann (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the California Board of Accountancy, Department of Consumer Affairs (Board).

2. On or about March 30, 1979, the Board issued Certified Public Accountant Certificate No. 27475 to Randy B. Kimball (Respondent). The Certificate expired and was not valid during the period of September 1, 1992 through November 22, 1992, for the following reasons:

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1 service therein as a public accountant for compensation.

2 "(b) Maintains an office for the transaction of business as a public accountant.

3 "(c) Offers to prospective clients to perform for compensation, or who does  
4 perform on behalf of clients for compensation, professional services that involve or require an  
5 audit, examination, verification, investigation, certification, presentation, or review of financial  
6 transactions and accounting records.

7 "(d) Prepares or certifies for clients reports on audits or examinations of books or  
8 records of account, balance sheets, and other financial, accounting and related schedules,  
9 exhibits, statements, or reports that are to be used for publication, for the purpose of obtaining  
10 credit, for filing with a court of law or with any governmental agency, or for any other purpose.

11 "(e) In general or as an incident to that work, renders professional services to  
12 clients for compensation in any or all matters relating to accounting procedure and to the  
13 recording, presentation, or certification of financial information or data.

14 "(f) Keeps books, makes trial balances, or prepares statements, makes audits, or  
15 prepares reports, all as a part of bookkeeping operations for clients.

16 "(g) Prepares or signs, as the tax preparer, tax returns for clients.

17 "(h) Prepares personal financial or investment plans or provides to clients  
18 products or services of others in implementation of personal financial or investment plans.

19 "(i) Provides management consulting services to clients.

20 "The activities set forth in subdivisions (f) to (i), inclusive, are 'public  
21 accountancy' only when performed by a certified public accountant or public accountant, as  
22 defined in this chapter.

23 "A person is not engaged in the practice of public accountancy if the only services  
24 he or she engages in are those defined by subdivisions (f) to (i), inclusive, and he or she does not  
25 hold himself or herself out, solicit, or advertise for clients using the certified public accountant or  
26 public accountant designation. A person is not holding himself or herself out, soliciting, or  
27 advertising for clients within the meaning of this section solely by reason of displaying a CPA or  
28 PA certificate in his or her office or identifying himself or herself as a CPA or PA on other than

signs, advertisements, letterhead, business cards, publications directed to clients or potential clients, or financial or tax documents of a client."

5. Section 5100 states:

"After notice and hearing the board may revoke, suspend or refuse to renew any permit or certificate granted under Article 4 (commencing with Section 5070) and Article 5 (commencing with Section 5080), or may censure the holder of that permit or certificate for unprofessional conduct that includes, but is not limited to, one or any combination of the following causes:

....

"(g) Willful violation of this chapter or any rule or regulation promulgated by the board under the authority granted under this chapter.

"(h) Suspension or revocation of the right to practice before any governmental body or agency."

6. Section 5050 states:

"No person shall engage in the practice of public accountancy in this State unless such person is the holder of a valid permit to practice public accountancy issued by the board; provided, however, that nothing in this chapter shall prohibit a certified public accountant or a public accountant of another state, or any accountant of a foreign country lawfully practicing therein, from temporarily practicing in this State on professional business incident to his regular practice in another state or country."

7. Section 22253, subdivision (a), states, in pertinent part:

"It is a violation of this chapter for a tax preparer to do any of the following:

(1) Fail to register as a tax preparer with the council."

8. California Code of Regulations, title 16, section 80, states:

"Upon application, a licensee may have his/her license placed in an inactive status.

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1 (a) The holder or an inactive licensee shall not engage in the practice of public  
2 accountancy as defined in Section 5051 of the Business and Professions Code. This section does  
3 not prohibit a holder of an inactive license from receiving a share of the net profits from a public  
4 accounting firm or other compensation from a public accounting firm, provided that the licensee  
5 does not otherwise engage in the practice of public accountancy, directly or indirectly.

6 (b) An inactive license shall be renewed during the same time period in which an  
7 active license is renewed. The renewal fee for a license in active status shall also apply for the  
8 renewal of a license in inactive status.

9 (c) The continuing education requirements set forth in Section 87 are not  
10 applicable at the time of renewal in inactive status.

11 (d) At the time of renewal, the holder of an inactive license may convert his or her  
12 license to active status by paying the renewal fee and complying with the continuing education  
13 requirements as stated in Section 87.

14 (e) The holder of an inactive license may convert to active status prior to his/her  
15 next renewal by meeting the continuing education requirements as stated in Section 87.1.

16 9. California Code of Regulations, title 16, section 87, subdivision (a), states,  
17 in pertinent part:

18 "As a condition of active status license renewal, a licensee shall complete at least  
19 80 hours of qualifying continuing education as described in Section 88 in the two-year period  
20 immediately preceding license expiration and meet the reporting requirements specified in  
21 subsection (a) of Section 89. A licensee engaged in the practice of public accountancy as defined  
22 in Section 5051 of the Business and Professions Code is required to hold a license in active  
23 status. No carryover of continuing education is permitted from one two-year license renewal  
24 period to another."

25 10. Section 118, subdivision (b), of the Code provides that the expiration of a  
26 license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the  
27 period within which the license may be renewed, restored, reissued or reinstated.

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1 FIRST CAUSE FOR DISCIPLINE

2 (Unprofessional Conduct)

3 11. Respondent is subject to disciplinary action under section 5100,  
4 subdivision (h) on the grounds of unprofessional conduct in that Respondent was placed under  
5 suspension by another governmental agency. The circumstances are as follows:

6 Respondent was suspended from practice before the Internal Revenue Service for  
7 the six-month period starting on July 1, 1996 and ending on December 31, 1996. The  
8 circumstances surrounding the suspension were that Respondent failed to timely file his personal  
9 income tax returns for the years 1986 through 1993.

10 SECOND CAUSE FOR DISCIPLINE

11 (Practice With An Inactive License)

12 12. Respondent is subject to disciplinary action under section 5100,  
13 subdivision (g) on the grounds of unprofessional conduct for violating section 5050, in  
14 conjunction with California Code of Regulations, title 16, section 80, in that Respondent engaged  
15 in the practice of public accountancy while his license was in inactive status. The circumstances  
16 are as follows:

17 On or about August 23, 2001, Respondent's license was placed in inactive status  
18 and remained in inactive status until it expired on August 30, 2002. On or about July 22, 2002,  
19 the Board received a statement from Respondent, wherein he admitted he prepared 185 personal  
20 returns for the 2002 tax season.

21 THIRD CAUSE FOR DISCIPLINE

22 (Practice Without a Permit)

23 13. Respondent is subject to disciplinary action under section 5100,  
24 subdivision (g) on the grounds of unprofessional conduct for violating section 5050, in that  
25 Respondent engaged in the practice of public accountancy while his license was in expired status.  
26 The circumstances are as follows:

27 From on or about September 1, 2002 through on or about April 12, 2003,  
28 Respondent engaged in the practice of public accountancy after his license had expired. During

1 this time, Respondent provided professional income tax preparation services to clients.

2 FOURTH CAUSE FOR DISCIPLINE

3 (Failure to Meet Continuing Education Requirements)

4 14. Respondent is subject to disciplinary action under section 5100,  
5 subdivision (g) on the grounds of unprofessional conduct for violating California Code of  
6 Regulations, title 16, section 87, subdivision (a), in that Respondent engaged in the practice of  
7 public accountancy during the period of September 1, 2002 through on or about April 12, 2003,  
8 without having completed at least 80 hours of qualifying continuing education.

9 FIFTH CAUSE FOR DISCIPLINE

10 (Failure to Register with Council)

11 15. Respondent is subject to disciplinary action under section 5100 on the  
12 grounds of unprofessional conduct for violating section 22253, subdivision (a)(1), in that  
13 Respondent failed to register as a tax preparer with the California Tax Education Council.  
14 Respondent prepared approximately 185 personal returns for the 2002 tax season without a valid  
15 tax preparer registration.

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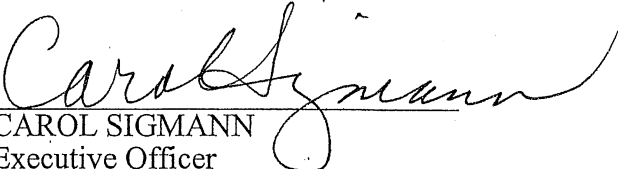
1 PRAYER

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
3 alleged, and that following the hearing, the Board issue a decision:

4 1. Revoking, suspending, or otherwise imposing discipline upon Certified  
5 Public Accountant Certificate Number 27475, issued to Randy B. Kimball;

6 2. Taking such other and further action as the Board deems proper.

7 DATED: October 20, 2003

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9   
10 CAROL SIGMANN  
11 Executive Officer  
12 California Board of Accountancy  
13 Department of Consumer Affairs  
14 State of California  
15 Complainant  
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